

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)
)
 v.)
)
 EPIFANIO ALCARAZ-ALCARAZ)
 aka Manuel Rayos_____)

Cr. No. 2:07cr30-WHA

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, Epifanio Alcaraz-Alcaraz, by and through undersigned counsel, Kevin L. Butler, and moves this Court, pursuant to 18 U.S.C. §§ 3161(h)(1)(F); (h)(1)(I), (h)(8)(B)(i), and (h)(8)(B)(iv) for a continuance of his trial setting of June 4, 2007. In support of this motion, Defendant would show the following:

1. Mr. Alcaraz-Alcaraz is charged by superseding indictment with possession with intent to distribute narcotics. Trial in this matter is presently scheduled for June 4, 2007.
2. **This matter has been resolved by negotiated disposition and it will not proceed to trial.**
3. In addition to the charges pending in this district, Mr. Alcaraz-Alcaraz has pending federal charges in Texas. In order to preserve judicial, prosecutorial and defense resources, pursuant to Federal Rule of Criminal Procedure 20 (Rule 20), the parties have reached an agreement that will resolve all pending federal charges/cases in one proceeding in Texas. This agreement will ultimately have to be reviewed and accepted by the Court in Texas.
4. Because of Mr. Alcaraz' detention in this district and the fact "paperwork" must be signed and adopted by parties in Alabama and Texas, final plea negotiations and Rule 20 procedures are complex and additional time is necessary to complete the Rule 20 paperwork.
5. Additionally, undersigned counsel has been unavailable to assist the government in

final document preparation due to his participation as lead counsel in the trial of United States v. Gregory Shiver, Case No. 05-cr-256-LSC, which began on July 23, 2007 and is expected to last through July 25, 2007. Defense counsel was appointed to this case on July 18, 2007 and has been primarily engaged in trial preparation since that date.

6. As a result, the final plea agreement and Rule 20 paperwork will not be complete before the presently scheduled trial date.
7. For these reasons, it is in the interest of justice to continue trial in this matter.
8. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985), in this case, the ends of justice will be served by allowing the defense adequate time to finalize the plea agreement and Rule 20 paperwork. Additionally, pursuant to 18 U.S.C. §§ 3161(h)(1)(F); (h)(1)(I), (h)(8)(B)(i), and (h)(8)(B)(iv), this court has authority to continue trial for the reasons set forth above.
9. The United States, through Assistant United States Attorney Clark Morris, does not oppose the granting of a continuance.

WHEREFORE, for the foregoing reasons, Mr. Alcaraz-Alcaraz respectfully requests that his trial date be continued from the presently scheduled date of June 4, 2007.

Dated this 24th day of July 2007.

Respectfully submitted,

s/ Kevin L. Butler
KEVIN L. BUTLER
First Assistant Federal Defender
201 Monroe Street, Suite 407

Montgomery, Alabama 36104

Phone: (334) 834-2099

Fax: (334) 834-0353

E-mail: kevin_butler@fd.org

AZ Bar Code: 014138

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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

A. Clark Morris, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
KEVIN L. BUTLER
First Assistant Federal Defender
201 Monroe Street, Suite 407
Montgomery, Alabama 36104
Phone: (334) 834-2099
Fax: (334) 834-0353
E-mail: kevin_butler@fd.org
AZ Bar Code: 014138